

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 OCTAFORM SYSTEMS INC. and
4 OCTAFORM INC.,

5 Plaintiff

6 v.

7 BRUCE JOHNSTON, ALBA LUCIA
8 LOZANO HERNANDEZ JOHNSTON, JUN
9 YU, CAROLINA DIAZ, and H-PAC
10 PLASTICS, LLC,

11 Defendants

Case No.: 2:16-cv-02500-APG-BNW

**Order Denying Defendants' Motion for
Partial Summary Judgment**

[ECF Nos. 142, 143]

12 Plaintiffs Octaform Systems Inc. and Octaform Inc. (collectively Octaform) sue their
13 former employees and the company they allegedly formed. Octaform asserts claims for trade
14 secret misappropriation and related torts. The defendants move for partial summary judgment,
15 arguing that an arbitration in Canada (the Huajun arbitration) already determined the amount of
16 damages for which the defendants may be liable on the unjust enrichment claim. Octaform
17 responds that the motion is premature because this case is stayed pending the outcome of a
18 second arbitration in Canada involving defendants Bruce and Alba Johnston (the Johnstons'
19 arbitration).

20 I deny the defendants' motion for partial summary judgment as premature. Because the
21 outcome of both arbitrations could have an impact on this case, the case is stayed. ECF Nos. 108;
22 118 at 37. The defendants argue that only trial is stayed. But my intention in the hearing was to
23 stay the entire case, subject to the discussed conditions and absent a motion to lift the stay. The
parties acknowledged that a stay "should remain in place until the decision is issued in the
Johnstons' Canadian arbitration." ECF No. 137 at 2. Because the Johnstons' arbitration has not

1 concluded, the stay remains. The defendants' motion for partial summary judgment is therefore
2 premature.

3 I THEREFORE ORDER that the defendants' motion for partial summary judgment
4 (ECF Nos. 142, 143) is **DENIED** without prejudice.

5 DATED this 2nd day of November, 2020.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE
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